

The Principia.

NEW-YORK, SATURDAY, JULY 2, 1854.

THE COMPROMISES OF THE CONSTITUTION.

A Correspondent writes us:

"Please give us, in the *Principia*, some of your strong arguments showing that the appointment and rendition clauses in the constitution do not recognize slaves. — Our leading ideas of the leading speakers of the Democratic party here show the Declaration of Independence does not meet the steps, and we cannot see the Republicans have a meet it. The compromise is, we believe a thorough discussion of the slavery question."

OUR ANSWER.

The *Principia* will be happy to furnish its Republican readers with arguments wherever to meet pro-slavery Democrats, if they find our Republican papers do not furnish them any that are "strong" enough. Their "Democratic" opponents evidently understand the necessity of going to the reason of the controversy. They understand that if the Declaration of Independence does mean to include the negro, then the appointment and rendition clauses of the Constitution cannot recognize negroes as slaves. All the Republicans have to do, therefore, to meet the Democrats is to hold them to the "self-evident" fact that the Declaration of Independence, does recognize and declare the equal and inalienable right of all men to liberty, and that "all men" includes black men, unless the Democrats can prove that black men are not men! Is the negro a man? Settle that question with your Democratic opponents, and you settle the whole.

But then, if you undertake "to meet" them on that point, you must stick to it, and not admit that the Declaration of Independence of the thirteen United Colonies, while it recognized the negroes as men, in some of the States, recognized them as slaves, chattels, (next) in other States? The Democrats will easily trip up your heels, if they catch you stumbling in that manner, on legs that are unequal.

But perhaps you want to know what to do with the language of the Constitution, in the "appointment and rendition clauses" — it says: read.

Do with it? Why! Let it mean precisely what it says, and do not allow the pro-slavery Democrats to twist it into any other sense. Contradict those clauses according to the legal rules of construction, and don't allow the Democrats to contradict them otherwise.

1. THE APPOINTMENT CLAUSE.

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons." Art. I, Sect. II, Clause 3.

This provision speaks only of "persons." Human beings are the only "persons" in the United States. Chivalry (as they) horses, oxen, sheep, and pigs are not "persons." Beat the elementary truth into the heads of your thick-skulled "Democrats" — or else make them feel what company such "persons" as themselves are finding themselves with — and who they are, if they really, that way be kept as battles!

If, as your pro-slavery Democrats say the Declaration of Independence does not recognize negroes as men, (when it says "all men are created equal") then it does not recognize them as "persons." And then, too, the Constitution does not recognize them as "persons." And if it does not recognize them as "persons" then this clause of the Constitution says nothing at all about them and consequently does not recognize them as slaves. So that their own construction of the Declaration overthrows them, at this point. Make that a set-off.

But the truth is this House, as it speaks of "persons" does mean only of free men, along with all "persons." And in speaking of them as "persons" it denies that they are slaves. For slaves are chattels, property, and are not men — and "property or chattels" cannot be persons.

"But why," it may be asked, was the term "free" introduced, as distinguishing some persons from all other persons?"

We answer the word "free" in its legal technical sense, as used in books of law, and in Constitution and charters, at that time and previously, in this country and all England, did not mean free, as a distinction from slaves, but as signifying those who have the franchise of "free subjects" — "free citizens" — "free men" in distinction from slaves. So that the phrase "all other persons" in this clause means "all men and free men." See Magna Charta, the Charter of Rights, the Constitutions of Georgia, N. Carolina, S. Carolina, Maryland, Delaware and New York, also the Articles of Confederation and later Constitutions of Pennsylvania and Connecticut, in all of which the word free — free citizen, free inhabitant, or free men, are thus used. Town meetings of voters in Connecticut are called "free men's meetings," but men who are not voters are not slaves. See also Jackson's law Dictionary, &c. &c.*

The legal rules of interpretation require us to construe the Constitution in this sense. The word "free" is a fact and lies in the science of law. And the rules —

When technical words are used, they are to be understood in their technical sense and meaning, unless the contrary plainly appears. 9, Pickersill 514. See also 1 Blackstone 40, and 1, Kent, 461.

On any question where the claims of slavery were not to be favored, the courts would rigidly conform to this rule. But they overthrow all rules, when necessary to maintain slavery.

Another reason why neither this nor any other clause of the Constitution can recognize slavery is, that neither at the time when the Constitution was formed, nor before or afterwards, has there ever been any positive law or legislative enactment legalizing slavery in any of the Colonies or States comprised in the Union. So that there never has been any legal source of law "recognized" by the Constitution — it could not "recognize" what did not exist. And in law, slavery did not and does not exist. On this point of the entire absence of any law for slavery, we might quote if we had room, John I. Calhoun, Senator Mason, Judges Matthews and Porter, Senator Douglas and Toombs, Gen. Stringfellow, and perhaps half the Southern Representatives in Congress. But if all this does not satisfy nor silence your pro-slavery Democrats, let them have it all their own way, if they will, and then, at your leisure, you can show them how much they have gained by it. Just see here!

If this provision of law does apply to slaves, if it does include "three fifths" of them in the apportionment of Representatives, if it does thus dignify the negroes of the Slave States, bond and free, into a constituency represented by "Representatives in Congress" then it emancipates them, of course, for by that construction, the House of Representatives "free" (persons) "shall no slaves." The constituents of Members of Congress are entitled to the protection of their "representatives" in Congress, as citizens, and not one of them can be legally enslaved. Congress is bound to secure their freedom. From this dilemma there is no possible escape. So thoroughly had chief justice Taney and the judges of the Supreme Court been convinced of this, by a radical abolition pamphlet sent to each of them, a few months before the Dred Scott decision, that the "apportionment clause" was studiously ignored by those of them who decided that a negro could not be a citizen. That clause they did not choose to mention, well knowing that it could be wielded against them, and so they cited only the "rendition clause" and the "migration and importation clause" which latter has been extinct since 1808. It is high time for pro-slavery Democrats, who go for the Dred Scott decision, to follow the example of their own idolized chief justice Taney, and apply prudently the "apportionment clause" also! They run into a steel-trap, when they run for shelter, into that clause.

THE RENDITION CLAUSE.

"No person held to service or labor in any State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation of either State, be discharged from such service or labor, as he shall be delivered up, or claim of the party entitled to such service or labor, may be due." Art. IV, Sect. II, Clause 2.

* In Spencer's Constitutional History of America, these provisions are illustrated at length. No more than was the difference in law between the parties, and the fact that the argument of the latter having led to it. No law has ever attempted it. Hundreds of Democrats, as well as Whig lawyers have been silenced by it.

2. "No person. — But a slave is held as a chattel, not as a person. — Neither here, nor any where else, in the Constitution is a slave or slavery mentioned. Nor is the condition of a slave described. The description in this clause is the opposite of such a condition at every point, and at every particular.

3. "Held to service or labor. — A slave is simply held as 'property' as a chattel. — Some slaves are not labor at all and are not 'held' for service or labor, but for necessity, if different, as in the case of insane families."

4. Held in one State, under the laws thereof. — We have already cited the witnesses who attest that no laws can be found in any of the States, holding any man in slavery. They are held in free, free, lawless force, and by nothing else. This clause cannot apply to them.

5. "On claim of the party to whom such service or labor may be due." — This is construction, describes the person who, under the laws of a State, owes to another person a debt which has been lawfully contracted "under the laws of the State" relating to contracts.

But nothing can be "due" from a slave, a chattel — a piece of property. — "Property" is never indebted to its owner. — "Chattel" never contract debts. And accordingly the slave code says: "A slave can make no contract."

— Consequently, nothing can be "due from" him.

If any "person" is claimed legally under this clause, he must be claimed by someone who claims the service or labor of due. And the debt must be legally proved. I must be shown that the person whose "service and labor" is thus claimed" has contracted a debt, which he has not discharged. — But, when a slave master goes or sends into another State, for a fugitive, he claims him as a "slave" as his "own party," and not as "a person." If he could succeed, (as he cannot) in substantiating that claim, he would only prove that nothing is, or can be "due" to him from the fugitive, and consequently that this clause of the Constitution makes no provision for his being "delivered up."

So well did Senator Mason understand this, that he objected against Mr. Dayton's proposed amendment, providing a jury trial for alleged fugitives, on this very ground. — "A trial by jury" said the Senator, "necessarily carries with it a trial of the whole right, and a trial of the right to service will result, according to all the forms of the court, in determining upon one other fact." And this he was, of course, unwilling to have done, well knowing that the claim could abide no such legal scrutiny! It was in the same connection that Mr. Mason declared, (as we have before mentioned) that there was no law establishing or legalizing slavery, in any of the slave States! — A more complete and full declaration of the illegality and unconstitutionality of slavery and of the Fugitive slave bill was never made by any radical abolitionist, or ever can be, by mortal man. He knew that no claim of the kind could be legally maintained, by legal rules, in any court, and therefore he objected to any legal trial. The Senate, it seems, agreed with him, both in opinion and in purpose, and accordingly enacted that the illegal and unconstitutional practice should undergo no legal scrutiny!

Once more. We omitted to say that the phrase, held to service and labor in this clause, is a legal phrase, and is equivalent to the phrase "bound to service" in the "apportionment clause" previously considered. The two clauses, at these points, harmonize, and mutually support each other.

No body supposes that the "persons" mentioned in the apportionment clause, as "bound to service" for a term of years, were "held to service and labor" as slaves, or otherwise than by a lawful and just law. It follows that the "persons" mentioned in the apportionment clause, who were held to service and labor "by the laws of the State," with specific plainly to be interpreted as slaves, are not bound to contract, or to perform, or to be subjected to any other service or labor from Germany, who were held to be a stipulated time, for their passage money, and sometimes even the payment of their "freedom dues" to another State. This abuse, much complained of in Philadelphia, when the Federal Convention was in session in that city, was evidently the occasion of the clause.

And this agrees with the records of the Convention. So far from its being true that an union could have been formed without a clause for the rendition of fugitive slaves, a clause was already existing under the Articles of Confederation.

